[Shri H. Hanumanthappa]

The question is:

"That the Enacting Formula, as amended, stand part of the Bill."

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

The Title was added to the Bill.

SHRI RAJESH PILOT: Sir, I move:

"That the Bill, as amended, be passed.

The question was put and the motion was adopted.

Prevention of Corruption Bill, 1987—Contd.

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): We shall now take up the discussion on the Prevention of Corruption Bill. Shri P. N. Sukul.

SHRI P. N. SUKUL (Uttar Pradesh): Mr. Vice-Chairman, Sir, I rise to support the Prevention of Corruption Bill, 1987. Sir, the intention of this Bill is to make the existing anti-corruption laws more stringent and draconian by widening their coverage and by strengthening the Provisions. The Prevention of Corruption Act, 1947, was amended in 1964 in the light of the recommendations of the Santhanam Committee which was appointed by the then Home Minister, Shri Lal Bahadur Shastri. The Indian Penal Code has provisions to deal with corrupt public servants and those who abet them by way of criminal misconduct. Similarly, there are provisions in the Criminal Law Amendment Ordinance to enable attachment of ill-gotten wealth obtained through corrupt means including transferance of such wealth. The Bill seems to incorporate all these provisions with certain amendments so as to make them more effective in combating corruption amongst public servants. That corruption is rampant in our society all over the country is an admitted fact. It is admitted on all hands.

SHRI VITHALBHAI M. PATEL (Gujarat): Not in my State.

SHRI P. N. SUKUL: The worst type of corruption exists in your State There is total prohibition. But you can get litres anywhere in your State. This corruption is not confined to any particular department of the Government. It has become all-pervasive and is subjecting the common man to untold suffering and exploitation. That is why, immediately after assuming office of the Prime Minister of India, Shri Rajiv Gandhi had urged on all the State Governments to launch a vigorous drive to cleanse the Augean's stables. He made a fervent appeal for improving the administration. But alas his appeal has fallen on deaf ears. The Centre has now come out with a new Prevention of Corruption Bill which seeks to amend the Prevention of Corruption Act, 1947 and also the Criminal Law Amendment Bill with a view to enhancing the penalties for corrupt officials and also expediting the disposal of cases. It is hoped that the State Governments will offer their unstined support and co operation to the Centre in fighting the hydra-headed demon of corruption which has been eating at the very vitals of our society. Steps are proposed to be taken in the Bill to remove various administrative and legal obstacles in the way of eradication of corruption and they are most welcome. No doubt, war against corruption should concentrate at the top without fear or favour. The Santhanam Committee had said in its Report, and I quote:

> "The failure of integrity is not uncommon among Ministers who have held office during the last 16 years. They enriched themselves illegimately having obtained good jobs for their sons and relations through nepotism and have reaped other advantages inconsistent with any notion of purity in public life."

Sir, undoubtedly it is true that if there is corruption at the top, you cannot check that corruption below that level, up to the very bottom. If a Minister is corrupt then his officers have either to go or to abet, and that is how this corruption percolates from top to the botom because if an officer is going to help the Minister to have some ill-gotten money, then why

should he not have some of it for himself? And generally it is seen that is how our bureacracy has become corrupt, and our Government officials have become corrupt because of the bureacracy. I remember, Sir, in 1967, when the Chief Minister of my State was Mr. Charan Singh, he used to condemn day in and day out the Government officials for being corrupt in order, perhaps, to prove his own honesty. He used to condemn the under-dogs, the low-paid Government employees of corruption But when he became the Home Minister of India and when he became the Prime Minister of India, he started talking in a different tone. Then he used to say that corruption is at the top and that corruption is percolating from the top to the bottom. Then he realised it. Before that, he thought that only the low-paid Government servants were corrupt but not the officers or leaders or Ministers or the other at the top. So, Sir, as I was saying, it is a vicious circle. And that is how corruption has today pervaded our entire system No doubt, Sir, our Prime Minister Shri Rajiv Gandhi and his Government have come out with the Lok Pal Bill which seeks to punish or take action against the Ministers such as might be found getting illegal gratification, etc. But, Sir, in my humble opinion, corruption cannot be eradicated from our society just by passing any law. The Anti-corruption or the Prevention of Corruption Act was already there since 1947. In spite of that Act, corruption has been increasing day by day. The law was there but it could not control or contain corruption in our society. Sir, I do not know how far the Lok Pal Bill when it is passed will be able to fight corruption at the Ministerial level because now corruption has gone into our very bones, into the very bones of our society....

SHRI VITHALBHAI M. PATEL: It is not more than 1 per cent.

SHRI P. N. SUKUL: It is a question of opportunity, Sir. That is my experience.

AN HON. MEMBER: A very bad experience.

SHRI P. N. SUKUL: One per cent of people may be there who, despite an opportunity, may not fall a prey to that lust for having some more money, ill-gotten money or unlawful gratification. But generally now what is seen today is that if a Minister can be corrupt, why cannot an officer be corrupt and as I was saying, why cannot a low paid Government servant be corrupt. So, I was saying that it is in fact a legacy of the British rule. The British ruled like that. They wanted to loot our country and that is how they tried to create a corrupt Government apparatus. They kept the pay of small Government servants very low like patwaris, like kanungoos, like naib tehsildars, very low pay they used to get. Why? So that, of course, they could get from other sources. And in one of the reports of a Pay Commission it was mentioned that since these people get money from other sources, there is no need for raising their pay beyond a certain level. That was there. They wanted to corrupt us so that we could help them directly and indirectly in what they wanted to do, that is looting the country. And today, Sir, we are still having the same laws, practically the same rules the same procedures, the same bureaucracy and the same attitude, the same outlook. And that is why I say now corruption seems to have gone into our very character, into the genes and if you have to remove it really, if you have to eradicate it, if you have to cleanse the Augean stables, then it cannot be done overnight, it cannot be done in one day. Its, in fact, involves the work of quite a few generations. You have to educate the people. You have to tell them that it should not be done. You have to establish certain values in the society which are now no more. And those values cannot be established in just one day or just by passing an Act. Generations have been taken to corrupt us. One law or too many laws merely are not going to help. The very attitude the very character the very outlook of the people has to be changed. There has to be a reorientation altogether. And this can be done not by punishing them merely as in this Bill it is proposed that the minimum punishment is six months imprisonment plus fine. If you repeat it, then

[Shri P. N. Sukul]

minimum imprisonment is one year, beyond that two years. At a particular stage minimum imprisonment is three years as contemplated in this Bill. But merely by providing for punishment what I mean to say is that you can of course punish a few people but you cannot eradicate the evil from the society. You see your Indian Penal Code is there since long and all your laws are there. You have been hanging people for murders. You have been punishing them for dacoities, for thefts and all that but have you been able to eradicate all these evils from the society because you had those laws and because you could punish them. (*Time-bell rings*). Mere punishment is not going to help. What is needed is, as I said, educating the people right from the very childhood in the text books at the primary level or at the secondary level, the students should be taught why he should not be corrupt. What is wrong in it. Things like patriotism should be taught from the very start and only then can corruption be eradicated. Today as it is our entire apparatus is in a very bad shape. For 30 years I was in the service of the Government. I know what happens. There is a Patwari. The Patwari manages the household of Kanungo. That Kanungo manages the household of the Naib Tehsildar or Tehsildar. That Tehsildar manages the household of the SDO. The Peshkar in a court takes bribe right in the court in front of the judicial officer, the Judge or the Magistrate. And that Judge knows that he is taking money in the court itself. Why? Because that Peshkar has to run the household of that Judge or Magistrate. The salary goes right into the bank. I know it, Sir. So it is not so easy that just by passing a law, you will be able to eradicate corruption or even prevent it. You cannot even prevent corruption just by passing this Bill, although it is a very pious attempt on the part of the Government to try to contain it, to try to prevent it by passing this piece of legislation. But the Government must know that if we really want to eradicate corruption, if we really want to prevent corruption then we have to do a lot more. There must be reorientation courses, there must be text-books having lessons on the subject. Only then we may be able to eradicate corruption in twenty years, thirty years or forty years. But by merely passing an Act when the Ministers are corrupt, when the officers are corrupt, you cannot hope to eradicate corruption.

That is all I have to say. With these words, I, of course, support the Bill.

DR. BAPU KALDATE (Maharashtra): You "of course" support the Bill and not oppose it.

SHRI KAMAL MORARKA (Rajasthan): Sir, that corruption is all pervasive, I do not now have to go into it because the speaker who spoke just before me has very graphically illustrated how corruption is prevalent in all walks of life, including the lower courts which he has just mentioned. Incidentally, the raison d'etre of this Bill almost disappears because if this is how the courts are going to function then the purpose of this Bill—of setting up Special Courts—is totally defeated.

I will begin by quoting Gunnar Myrdal in the Asian Drama where he mentions that in developing countries, the incentive in economic affairs is reduced because of controls on profits, unlike the Western countries where there is great incentive in economic activity, where if a man works more, he earns more and taxation is less. On the other hand, he has noted that in the developing countries there is much greater incentive in administrative activity, which is almost missing in the Western countries. Of course, he has gone on to illustrate how right from getting an industrial licence to opening the gates of railway track money has to change hands, with specific reference to India.

Sir, I feel that if we analyse the present social structure and the points at which corruption takes place, there are three main reasons, the three Ds. that are responsible for corruption—dearth, delay and discretion. At the level of the common man, it is the shortage of commodities—whether it is rations, whether it is edible oil, whether it is getting a ration card, whether it is getting a railway ticket, this corruption is the direct result of dearth. The total supply is less than demand. Un-

less shortage disappears, this corruption will remain. Only you can change the point at which you want corruption to take place. If you have open trade in foodgrains, the local bania will be corrupt; he will be charging black-market rates and probably the administrative machinery can act on him. But in the public distribution system, if the shortage persists, it is the Government's own people who are corrupt and action becomes even more difficult. So, unless shortage disappears, the corruption which affects the common man cannot go away. No amount of courts, no amount of administrative machinery, no amount of special judges or courts will be able to bring relief to the common man as far as his daily necessities go.

The second level at which corruption takes place is due to delay. In Government offices, right from the Under Secretary to the Minister, the file goes at seven levels. I do not know, it must be a legacy of the British rule; they may be having a seven-tier system of management. In today's India, I do not find any justification for having so many level through which a file should go.

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. CHIDAMBARAM): It is no longer true.

SHRI KAMAL MORARKA: Since when?

SHRI P. CHIDAMBARAM: Since the last two years.

SHRI KAMAL MORARKA: Sir, I am sorry, I beg to differ. Delay is still one of the main reasons.

SHRI P. CHIDAMBARAM: I am not saying there is no delay. I said, it is no longer true that the file travels seven levels.

SHRI KAMAL MORARKA: Okay, it is six levels now. I stand corrected. The point is, because there are small Government officials who can delay our work and there is a regular army of self-employed people who will take money and can get your file moving fast, corruption takes place. So, unless you eliminate the delay you cannot eliminate corruption, and this delay takes place because of the inherent structure of your system. I do not want to join issue. May be Mr. Chidambaram also is the Minister in charge of Public Grievances, Administrative Reforms and all that must have taken steps, But we have a long, long, way to go and if we can straighten the system, I am sure, a lot of corruption, at various levels, can be reduced.

The third level of corruption is discretion—and that is where high level corruption comes. Say, there is a particular licence or a particular permit or a particular import technology which the Government has to give and there are five applicants. All the applicants are big business houses, all applicants are influential, all applicants are rich and the Government has to select one or two. Here is a discretionary power. Whether the discretionary power is wielded by the Minister or the Secretary or by any other high officials, that is where corruption in high places takes place. Now, in a democratic system like India, unless discretionary power is reduced, corruption will remain.

You take the revenue officials. The amount of discretionary power under the Direct Taxes Bill, under the Income-tax Act and even under the new Act which we passed last year and which is due for amendment again, incidentially, the amount of discretionary power wielded by an Income Tax Commissioner, by an Income Tax Officer or by a Sales Tax Officer is immense. It is totally disproportionate to his own status in life. I agree with the previous speaker, Mr. Sukul, that hardly one per cent of people will be there who can resist succumbing to a situation. Here, there is an Excise Inspector in a factory, and your law gives him power which can make a difference of crores of rupees. His own judgment, his own discretion, can make a difference of crores of rupees to the owner of a factory, and his own salary is only Rs. 1,000 or 2,000. It is not far to seek that corruption will take place.

[Shri Kamal Morarka.]

Unless there is a basic restructuring where discretionary power has to have direct proportion, direct relevance to the status of the person who is wielding that power, I am afraid corruption cannot go.

Now, Sir, society being what it is and these reasons being what they are, one may well ask, what is the solution? The first solution in my opinion is, as I told you, for the common man his daily necessities must be available in good quantity. That is number one. Number two: We should try to decentralize. The common man should not be made to travel and meet one particular person. The goods should be taken to the common man. The common man must not go and stand in the queue, because it is where the corruption starts. Decentralisation is the key.—I do not know if it is a key to removal of corruption—but definitely to reduction of corruption. More centralisation means more corruption. Even the Soviet Union has gone for "perestroika". If you read the proceedings of the CPSU, Michael Gorbachev has himself come up against long queues, for restructuring of the party system. Of course, they have a one-party system. We have an open democratic system. But, he has also felt that if the system is too much closed, malpractices set in, and the common man stands to lose. In a system like India, in a society based on the dreams of Mahatma Gandhi, we have no business to go on centralising the system, introducing controls, making petty officials in charge of things by which willy-nilly they will succumb to the temptation to make money.

Sir, the other thing is the entire value system that we are trying to institutionalise. Today, I am sorry to say, the honest man is looked down upon. Today a man who has earned money, no matter how he has earned the money, gets respectability. Mrs. Indira Gandhi, when she became Prime Minister, called for social boycott of blackmarketeers, social boycott of corrupt people. That was 20 years ago. Today we find that they have earned social respectability. Forget about boycott. Even among Government officials, a Government official who is corrupt is also getting promoted. To know that a Government official is corrupt, no enquiry is required, no Judge is required. Everybody in the *mohalla* knows it. Everybody in the Udyog Bhavan knows it. Everybody knows that this man is corrupt. He is living beyond his means. He is also getting promoted. He is also getting the advantages. You may well say that once a person is found to be corrupt, we will take action. That in all right, Sir. (*Time-bell rings*). A few more minutes.

SHRI P. CHIDAMBARAM: How can we take action against somebody not found corrupt?

SHRI KAMAL MORARKA: I don't want you to take action. But certainly in the matter of promotion, merit must be recognised, honesty must be recognised. A person is living in a style which is disproportionate to his income. May be, the CBI has not raided him. You don't need to raid a person to know that he is living beyond his means. This is what I am trying to say. We are promoting a culture of corruption. We have promoted a value system where dishonesty pays over honesty. Unless this system is changed, unless this environment is changed, no amount of these laws will help.

What is happening today, Sir? Today we have controls. So, we have corrupt officials. Then, to catch the corrupt officials we have the Vigilance Squad. To see that the Vigilance Squad does not become corrupt, we have the Anti-corruption Bureau. To see that the Anti-corruption Bureau does not become corrupt, we have the State CID. If that does not help, the CBI is there. Sir, what is the CBI? The number of cases recorded by the CBI in 1975 is 1,078; in 1980 it recorded 1,073 cases. Even in 1985, after 11 years, the cases are 1,082. The number of cases we are the same. Are we to believe that with the increasing population, increasing economic activity the corruption per centage has gone down? It is difficult for the common man to swallow, Sir. At the same time, if we go through, what are these cases? There are cases of some Sub Judge taking Rs 2,000 of some Sub-Inspector taking Rs. 5,000. Sir, in today's society this is petty change. This is no corruption

which the CBI should be after. I will be happy if the CBI, instead of a thousand, catches only a hundred cases. But let them all be of over Rs. 1 crore each. There are cases like that. But those people are too powerful. We are building a society in which the small thief is hanged by the neck, and we are taking our hats off to bigger ones. This kind of society is responsible for increasing corruption.

My submission on this Bill, Sir, is this. Since the Bill is there, it is likely to be passed. Its structure is not important. The Judges, the Special Courts, the Special Judges are not important. It is the quality of the people that is important, Sir, at least make sure that the Judges whom we select are honest, not like what Mr. Sukul said. In that case he will start taking money. Then it will be dangerous because this particular Judge will be dealing with corrupt people. So, it will be very difficult to control him. At least in this Court, let us take people who are of unimpeachable integrity. Sir, it is not difficult to find out. Mr. Chidambaram may not agree with me. Mr. Chidambaram himself can select if he sits down with a list of IAS officers. He himself can tick the names of people who are of unimpeachable integrity. And the Government does it. They have got sensitive positions. What is that senstitive position? There must be a test for it. For sensitive positions there is a track record and you get a lot of intelligence information.

In my opinion any position in the bureaucracy which gives the power to take discretionary decisions, should be taken as a sensitive position and people of unimpeachable integrity should be put there. Then the whole problem will start getting solved in no time. In a small village when a Thanedar is posted, no inquiry is required. Within one week the entire village comes to know whether he is an honest man and people flock to him to get their grievances redressed. In a present society where the word of mouth is much more valuable than all this data and objective assessments, my humble submission is, please do something to change the entire environment. If that is done, I am sure, it will go a long way in achieving the objectives with which you brought in this Bill.

SHRI SHANKARRAO NARAYANRAO DESHMUKH (Maharashtra): I am very happy that a very exhaustive Bill for prevention of corruption has been brought in. Because law is an index of the progress in our society, this law dates back to 1944. Even during World War II, the then Viceroy, Lord Wavell, thought very necessary to introduce this law on corruption. Therefore, he introduced the Criminal Law (Amendment) Ordinance in 1944 and the effect of it was that people found with illegal wealth were prosecuted and their properties were attached and confiscated. This disease of corruption was spreading very fast, and it engulfed practically the whole of the country in various walks of life. Thereafter, many efforts were made. The Administrative Reforms Commission had suggested some ways. On the strength of those suggestions Lok Pal Bills were introduced. The Lok Pal Bills were introduced in 1968, 1971 and 1977, but all these Bills lapsed. Thereafter the corruption in political high-ups was very much. Therefore, the Government was very much worried over it. But since the hon. Prime Minister has come into power, he has made three great efforts. One was the anti-defection law which was passed in 1985. Therefore, this corruption of horse-trading in high places was stopped and the political parties function within that latitude and longitude.

The second effort was made regarding the Companies which used to pay to the political parties huge amounts of money. Therefore, a law was enacted under the Companies Act that five per cent of the profits will be given to the recognised political parties and they will have to keep accounts. The third effort that was made was of the Vigilance Office. But then all these things proved to be very insufficient and corruption started growing. They have violated so many laws. If I enumerate a few of them, they are the Essential Commodities Act, Import and Export Act, Central Excise Act, Customs Act, Industries Development and Regulation Act, Foreign Exchange Rules, Income Tax Act. All these Acts were violated off and on. The fact is that these places have become the centre of corruption and other Departments have

[Shri Kamal Morarka.]

also become corruption places. The Prohibition Department is the Department which is the highest corruption Department. Then comes the Police Department, City Survey Department, Municipal Department, Defence Department and Education Department. These are the pure dens of corruption. You can see in these Departments there are officers there are people who have got huge amount of wealth disproportion to their income. Therefre, I would like to submit that these people are not working in the interest of the people but they are working against the national interest. Therefore, there was necessity to bring this exhaustive Bill. As has been rightly pointed out by my previous speaker is poor salaries and inadequate promotional avenues. These things were supported by the encouragement of the politicians. This has caused all these alarms. This disease of corruption has spread in the white-collar jobs also. You will be surprised to know that the percentage of corruption is more in the white-collar jobs than with the other people. Therefore, I welcome this Bill.

But regarding this Bill also, I have got certain doubts. Under clause 2, sub-clause (c) item (viii) it says: "Any person who holds an office by virtue of which he is authorised or required to perform any public duty." This covers every malpractice and it covers mostly a public servant. The "public servant" is defined in the Indian Penal Code under section 21. All the items in that section relate to employee who is appointed. This mostly concerns to the Government employees. But under the present clause 2, sub-clause (c) (a) every person, even a Member of Parliament or even a Member of the Legislative Assembly or Ministers will be covered and the effect of it will be so horrible that any person can file a complaint in any court and the person will be caught. Therefore, I wish to bring to the notice of this august House certain provisions. These MPs, MLAs or the Ministers, as I present, are the creatures created by a statute. We have a special creation according to the statute. Therefore, I would draw your attention to the Representation of the Peoples Act 1951. Section 3, it says "A person shall not be qualified to be chosen as a representative of any State." These people are the representatives and not the employees, not the appointing authorities.

Again I will draw your attention to section 4 of the same Act. I quote: "A person shall not be qualified to be chosen." Therefore, I submit that these MPs, MLAs or the Ministers are the creatures specially created for a particular purpose under a particular statute. So, they hold a very particular provision. Not only that, but these MPs. MLAs and the Ministers are governed by different service rules, their salaries, their allowances, the nature of their work, everything is different and this was why when the Constitution was framed.. (*Interruptions*)..

6.00 P.M.

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): Please conclude now.

SHRI SHANKARRAO NARAYANRAO DESHMUKH: Sir, I will take another 5-10 minutes. Therefore, I would draw the attention of this august House to a very important provision. It is not only in the Representation of People Act that these people are chosen as representatives but it was contemplated when the Constitution was being drafted. I will draw your attention to article 84. It says, "A person shall not be qualified to be chosen." not to be appointed, but he is to be chosen. A very great care was taken. Again, I will draw your attention to article 102. "A person shall be disqualified for being chosen." He is not to be appointed, he is not to be employed, he is to be chosen because of his status as a representative of the people, not as an employee. The employee shall governed by a particular set of rules and those particular rules are different from the rules which apply to MPs, MLAs and the Ministers. They are governed by a different set of rules. You can well imagine how important this matter is. I would draw your attention to article 103. Now, Sir, how difficult it is? Why I say, these are the creatures, created under the special statute, you will come to know. Article 103 says, "If any question arises

as to whether a Member of either House of Parliament has become subject to any of the disqualifications mentioned in clause (I) of Article 102, the question shall be referred for the decision of the President." It is not a small thing No authority can be given that power except the President and not only that, the Constitution does not stop at that. It goes on to say that "before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to his opinion." How difficult it is? If you want to disqualify, you have to obtain the sanction of the President. (*Interruption*).

THE VICE-CHAIRMAN (SHRI H HANUMANTHAPPA): Please conclude now. You have taken your time. Please conclude now. (*Interruption*).

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI M. M. JACOB): Let him complete today. Allow him to complete today, Sir. (*Interruptions*)

DR. BAPU KALDATE: Sir, he is having 10 books with him. He is a very learned lawyer. He has finished only three books.

...(*Interruptions*)...

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): He has completed the time and not the books.

DR. BAPU KALDATE: Sir, books have to be completed, not the time.

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): Please conclude.

SHRI SHANKARRAO NARAYANRAO DESMUKH: Give me some more time. Therefore, Sir, what I want to bring to your notice is that you canot equate. Please do not equate representatives of people with Government servants. By ill-luck, the Supreme Court has given a decision in *Antulay's case* that Ministers are public servants. I humbly submit, as a lawyer practising from 1940, that courts can interpret but they cannot add to or amend or very a section. Therefore, unless section 21 of the Indian Panel Code is amended or unless you make a specific amendment in any of the Acts, you cannot override the provisions of the Constitution which are brought to the notice of this House in brief. Therefore, my submission is, Sir, these two are two distinct classes. Of course, I do not hold the opinion that these persons should not be prosecuted. They must be prosecuted. That is certain, But there is a way out and you shall find out that way. What has the Supreme Court done? The Supreme Court has only said that he is a public servant. Now, suppose, tomorrow a common man goes to the court. There are so many unscrupulous persons who would like to take political advantage of the circumstance, both this side and that side.

DR. BAPU KALDATE: More that side.

SHRI SHANKARRAO NARAYANRAO DESHMUKH: Arey Baba, what are you talking? Unscrupulous people will try to take advantage of it. Even tomorrow, as soon as the Bill is passed, they will file so many complaints. And these complaints will have to be entertained because the procedure allows it. There is a provision for investigation. There is a provision for sanction. (*Interruptions*).

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): Please do not answer them. Please conclude now.

SHRI SHANKARRAO NARAYANRAO DESHMUKH: In this particular case, the question of investigation comes. This will go to a police officer as is given in Chapter IV and clauses 17 onwards. Then the provision for sanction comes in Chapter V. We know what happens in investigation. We know what current it takes, what flow it takes when it goes to sanction regarding this. Who is the sanctioning authority? Will the Government nominate? We are the creatures of the statue, created under the Representation of People Act. Therefore, this House must give them sanction. If you want to

[Shri Shankarrao Narayanrao Deshmukh]

prosecute any man and if you want to have sanction, the sanction must be of the House and not of the Government. There we differ. (*Interruptions*). And therefore, I submit, Sir, if you want to know this, you will have to get these sanctions examined. You will have to apply your mind to it. Now, I will go a little further. (*Interruptions*).

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): Please conclude now.

SHRI SHANKARRAO NARAYANRAO DESHMUKH: If you will read clause 20...(*Interruptions*). If a complaint is filed that Mr. Kaldate has misappropriated Government funds...

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): Don't take his name. He will against get up.

SHRI SHANKARRAO NARAYANRAO DESHMUKH: That is possible. The presumption is "unless otherwise proved". But he has already misappropriated. Can you equate a Government servant with this hon. Dr. Bapu Kaldate, a person of his stature? Can it happen in this House? If anything like that comes to the notice of this House, he would have said, all right...

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): Now you should conclude.

SHRI YASHWANT SINHA (Bihar): I think we had enough.

SHRI SHANKARRAO NARAYANRAO DESHMUKH: A decision given by the Supreme Court becomes law. Article 141 of the Constitution says:

> "The law declared by the Supreme Court shall be binding on all courts within the territory of India."

I agree it is a law binding on all courts but not on this honourable House. It is Constitution. I know but when it is brought to the notice of this House as a member of this august House we experience a certain difficulty...

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): You have taken twenty minutes. Please conclude in one minute.

SHRI SHANKARRAO NARAYANRAO DESHMUKH: When we know that you people are liable to face such difficulties in a very short future, it is my first bounden duty to bring to your notice the provisions that safeguard you under the Constitution and the People's Represenation Act is entirely in conformity with the Constitution of India. Therefore, the consideration of MPs or elected representatives of both Houses of Parliament or a State Legislature being public servants has special significance. Members have got a special role to play. They will be unable to do their duty. What has the experience shown us in the case of Mr. Antulay? What has come out of his case? Nothing. He was hauled up for four to five years. On what grounds? The complainant himself said, "I do not know what was written in the complaint." Tomorrow I myself file or somebody files a complaint against Bapusaheb Kaldate and later on I will deny it and say, "I do not know it" will that do? Therefore, scrutiny must be there, investigation must be there through the proper channel and the sanctoning authority must be the Honourable Chairman. (*time-bell rings*) Lastly I submit only one thing. The hon'ble Minister will not take my submission on different grounds. But it is my bounden duty to bring to the notice of this august House certain provisions which are entirely contradictory to the provisions of the Constitution and if there are certain decision given by the Supreme Court or the High Courts, are we not entitled to remove them?

MESSAGE FROM THE LOK SABHA

The Arms (Amendment) Bill, 1988

SECRETARY-GENERAL: Sir, I have to report to the House the following message received from the Lok Sabha signed by the Secretary-General of the Lok Sabha:

"In accordance with the provisions of rule 96 of the Rules of Procedure and